

**In the Matter of Establishing Just and
Reasonable Rates
for Local Exchange Carriers
WC Docket 07-135
CC Docket 01-92**

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Background: FreeConferenceCall.com



- Began operations in 2001.
- End user of telecommunications services providing a wide array of free and paid collaborative communications.
- Over 5 million registered users per month.
- Provide service to small businesses, non-profits, Fortune 500 companies, government users.
- Business Week, Fortune, Network World have lauded FreeConferenceCall.com's services.

Proposed Rule Modifications Unnecessary

- IXC's demands for burdensome new regulations, such as tariff reviews, "triggers" and certifications are unnecessary.
- NPRM purports to confine inquiry "to whether access rates of LEC are or will be, just and reasonable," but Commission already has mechanisms to allow for such review—including complaint process.
- The Commission has concluded that the policies and purposes of the 1996 Act demand a "market-based approach" to the regulation of access charges.
- No Commission order has ever required a CLEC to provide a study of its own costs to establish a reasonable rate. Indeed, the Commission has expressly rejected such an effort.
- Examining a CLEC's "costs as the touchstone" would be contradictory to the Commission's "reliance on market factors to dictate the appropriate rates." *Access Charge Reform and Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Eighth Report and Order and Fifth Order on Reconsideration, 19 FCC Rcd 9108, 9136, ¶ 57 (2004)

WC 07-135 Should be Consolidated With CC 01-92

- Any alleged issues relating to so-called “traffic pumping” should be addressed CC 01-92; and not undertaken as piecemeal “reforms.”
- Maintaining artificial rate distinctions based on geography or on traffic type is contrary to the Act, inappropriate from an economic and policy perspective, and administratively expensive.
- Proposed rules in WC 07-135 violate the FCC’s stated goals for intercarrier compensation reform, including the goals of:
 - “[C]reate a technologically and competitively neutral system that can accommodate continuing change in the marketplace, provide regulatory certainty and not impede novel technology;”
 - Require minimal regulatory intervention and enforcement
- The NPRM’s proposed regulations effectively regulate carriers based on the business of their end user customers, like FreeConferenceCall.com—a classification always has been, irrelevant for the purposes of terminating a call to that customer.

Commission Has Already Settled Issue of State Customer



- In *Qwest v. Farmers & Merchants Mutual Telephone* the Commission has already concluded that:
 - Farmers did not violate Sections 203 or 201(b) of the Act by imposing terminating access charges on traffic bound for conference calling companies;
 - Calls to conference bridges terminate at the conference bridge;
 - Conference calling companies are end users as defined in the tariff, and therefore access charges are appropriate;
 - The question of whether the conference calling companies paid Farmers more than Farmers paid them is thus irrelevant to their status as end users;
- There is no basis in this record to disturb any of these conclusions.

The IXCs Acknowledge Status As LEC Customers

- Verizon acknowledged in a court filing on Mar. 24 that the fundamental holding of *Qwest v. Farmers* case, despite the pending reconsideration on discovery issues, is the law today and must be adhered to.
- AT&T, in the *InterCall* appeal, acknowledges that conference calling companies are “end users” and that “AT&T is obligated to treat [conference call companies] as an end user...”
- Qwest, too, admits that its litigation position that “long distance calls to conference bridges were not terminated for purposes of assessing switched access charges has been rejected ...”
Comments of Qwest In Support of InterCall’s Request for Review and Petition for Stay, n. 3 (Feb. 25, 2008).

IXCs and Wireless Carriers Are “Traffic Pumpers”

- AT&T, MetroPCS, Sprint, Qwest, Verizon, all sign up customers to flat-rated plans with free, unlimited usage and now, via this rulemaking, are seeking to place as much of their network costs as possible on the third-party common carriers.
- MetroPCS markets itself as offering a flat-rated service plan to its customers, “allow[ing] them to make local and/or long distance calls...*of unlimited number and duration.*” See MetroPCS Communications, Inc. Form S-1 at 11 (March 23, 2004), available at <http://www.secinfo.com/d14D5a.11e82.htm>.

IXCs and Wireless Carriers Are “Traffic Pumpers”

- AT&T, Sprint and Verizon have all followed MetroPCS and are now offering unlimited call plans.
- Given the nature of these calling plans, and AT&T, Sprint and Verizon’s enthusiastic encouragement that its customers “use their telephone,” (MetroPCS) and “never worry about minutes again” (Verizon), these companies no position to accuse anyone of being so-called “traffic pumpers.”
- The IXC’s and wireless companies cannot claim that they are harmed because their customers are using their calling plans as intended.
- Requiring IXC’s to charge per minute instead of “unlimited” would resolve any concerns about “pumping” of traffic.

The FCC Should Not Tolerate Self Help

- FCC should demand the IXC's and wireless cease from engaging in self-help.
- IXC's have engaged in illegal call blocking.
- IXC's refuse to pay tariffed charges.
- Aim now is to starve RLECs out of business.